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SENATE

REPORT
100–282

JOINT RESOLUTION RELATING TO CENTRAL AMERICA PURSUANT TO HOUSE JOINT RESOLUTION 395 OF THE 100TH CONGRESS

FEBRUARY 2, 1988.—Ordered to be printed

Mr. PELL, from the Committee on Foreign Relations, submitted the following

REPORT

[To accompany S.J. Res. 243]

The Committee on Foreign Relations, to which was referred the joint resolution (S.J. Res. 243) relating to Central America pursuant to House Joint Resolution 395 of the 100th Congress, having considered the same, reports unfavorably thereon without amendment.

PURPOSE

The purpose of S.J. Res. 243 is to authorize additional moneys and authorities to enable the administration to continue its policy of providing lethal and nonlethal assistance to the Nicaraguan resistance forces. The timing, text, and procedures for congressional consideration of the request transmitted by President Reagan on January 27, 1988, are governed by section 111 of P.L. 100–202 (H.J. Res. 395—Making Further Continuing Appropriations For The Fiscal Year Ending September 30, 1988. See appendix 1 for text of Section 111 of H.J. Res. 395).

BACKGROUND

THE ADMINISTRATION'S REQUEST

Pursuant to Section 111 of the Continuing Resolution passed on December 22, 1987 (P.L. 100–202) the administration is requesting more than $60 million in additional assistance for the Nicaraguan resistance. (See appendix 2 for text of the administration's request.)

5383-2

The request includes $3.6 million in lethal assistance—defined as weapons, weapons systems, and ammunition. It also includes $32.65 million in nonlethal assistance—defined as "assistance other than lethal"; as well as $20 million to provide self-insurance against loss or damage of leased aircraft. In addition, it authorizes the Department of Defense to make available electronic equipment, radar, and other air defense equipment. The administration's request does not include a dollar estimate of the cost of this equipment, however unofficial estimates place it at $8 million. Finally, the request extends the authority of the Central Intelligence Agency to "support, monitor and manage" the Contra aid program.

The assistance requested by the President, if approved by Congress, would be provided over a 4-month period ending June 30, 1988. The President's request would be funded by the transfer of moneys from prior year Department of Defense Appropriations Acts.

LETHAL ASSISTANCE ESCROWED

The request includes a provision which places the $3.6 million specifically authorized for lethal assistance in escrow until March 31; however the broad definition of "nonlethal" assistance will permit materials of a military nature to be delivered during the so-called escrow period. After March 31 escrowed funds are released upon the certification by the President that (1) no mutually agreed upon cease-fire is in place; (2) the lack of a cease-fire arrangement is due to lack of good faith on the part of the Nicaraguan Government; and (3) the Nicaraguan resistance has engaged in good faith efforts to acheive a cease-fire.

This certification is very similar to one contained in H.J. Res. 395, which governed the suspension and resumption of lethal deliveries to the Contras in January. Under the terms of the continuing resolution, Congress had suspended the delivery of lethal equipment to the Contras during the period January 12–18, to coincide with the meeting of the five Central American Presidents on January 15–16, in San Jose, Costa Rica.

Resumption of such shipments was dependent upon the President certifying that no cease-fire agreement was in place; the Nicaraguan Government had demonstrated bad faith in the negotiations, and the Nicaraguan Resistance had demonstrated good faith. The President certified to the above on January 20, and lethal shipments have resumed. Such shipments may continue through February 29.

SENATE PROCEDURES

Under the provisions of the continuing resolution, the Foreign Relations Committee was to report the joint resolution to the floor no later than the close of business on February 2, or be subject to discharge. Under provisions of the continuing resolution only three alternatives were available to the committee in its deliberations. The committee could report it favorably, unfavorably, or without recommendation. The joint resolution is not amendable, and all points of order which might otherwise apply are specifically waived during floor consideration of the matter.

On Thursday, February 4, it is in order for any Senator to move to proceed to immediate consideration of S.J. Res. 243, debate on the resolution is limited to 10 hours, with a vote scheduled to occur no later than 10 p.m. on that day. Similar procedures are included for House consideration on an identical resolution, with a vote to occur on February 3.

The Central American Peace Accord

A CENTRAL AMERICAN PEACE INITIATIVE

On February 15, 1987, in San Jose, the President of Costa Rica, Oscar Arias Sanchez, unveiled a proposal for peace in Central America at a meeting with the Presidents of Honduras, Guatemala, and El Salvador. The Presidents agreed that a plan should be developed to end armed conflict and to promote the establishment of democracy in the region. The framework of the peace plan crafted by President Arias drew heavily from the framework set forth in the Contadora Document of Objectives—a multilateral effort by the governments of Mexico, Venezuela, Colombia, and Panama to develop a negotiated settlement to the armed conflicts in Central America. However, the Arias plan is unique in that it is the first effort by the countries of the region to develop their own solution to the problems which confront them.

ESQUIPULAS II AGREEMENT IS SIGNED

On August 7, a modified version of the initial Arias proposal was adopted by the five Central American Presidents at a meeting in Guatemala City. (See appendix 3 for the full text of the agreement.) This agreement has come to be known as the Esquipulas II Agreement (Agreement). The agreement formally entitled, "Procedure for Establishing a Stable and Lasting Peace in Central America," has as its center piece the simultaneous entry into force of five key provisions within a ninety day period. These are provisions for amnesty, cease-fire, democratization, non-use of territory to attack other states, and cessation of regional and extra-regional assistance to irregular forces and insurgency movements.

NATIONAL AND INTERNATIONAL MONITORING BODIES

Two organizations were specifically established by the agreement and charged with monitoring compliance with its provisions—the National Reconciliation Commission and the International Verification and Follow-Up Commission.

NATIONAL RECONCILIATION COMMISSIONS

Monitoring at the national level was to be accomplished by the creation of a four person National Reconciliation Commission (commission) by each signatory, with each commission to be composed of a representative (and an alternate) chosen from the government, the church, the opposition parties, and a person of national prestige not associated with the government. These national commissions were to ensure compliance with provisions of the agreement, most specifically those concerning amnesty, cease-fire, democratization (free press, freedom of association and political parties, and

the lifting of any state of emergency which limits such rights), and free elections.

The Nicaraguan Government was the first signatory to comply with provisions of the accord in establishing its Commission. The Nicaraguan Commission was formally installed on September 1, 1987, some 3 weeks after the signing of the agreement, and well before the November 5, deadline specified in the agreement. The appointment of Cardinal Miguel Obando y Bravo as the President of the Commission signalled a serious commitment on the part of the Nicaraguan Government to comply with this provision. While all of the other signatories had established national commissions by the November 5 deadline, few would argue that their commissions have played as significant a role in the national reconciliation process as the Nicaraguan Commission has in Nicaragua.

INTERNATIONAL VERIFICATION AND FOLLOW-UP COMMISSION

Monitoring at the international level was to be accomplished by the creation of the International Commission for Verification and Follow-Up (International Commission). The International Commission is a 15-person entity composed of Secretaries General of the OAS and the U.N., the foreign ministers of the parties to the agreement, as well as the foreign ministers of the Contadora Group (Mexico, Colombia, Venezuela, and Panama) and the Support Group (Argentina, Brazil, Peru, and Uruguay).

The International Commission prepared its report and submitted it on January 14, pursuant to the terms of the Esquipulas II Agreement, to the five Central American presidents. This report was considered by the five presidents during the course of the January 15–16 summit in San Jose. (See appendix 4 for conclusions of International Commission's report.)

The extensive report by the International Commission provided a detailed account of the on-site visits made by members of the commission since November 5. Each signatory came in for some measure of criticism with respect to lack of compliance, including for example allegations that certain signatories continue to permit their territories to be used by irregular forces to attack neighboring countries, and that Nicaragua has failed to achieve effective ceasefire arrangements as mandated by the Agreement. The United States government was also criticized for continuation of the Contra aid program:

> In spite of the exhortation of the Central American presidents the government of the United States of America maintains its policy and practice of providing assistance, military in particular, to the irregular forces operating against the government of Nicaragua. The definitive cessation of this assistance continues to be an indispensable requirement for the success of the peace efforts.

PRESIDENTS REAFFIRM COMMITMENT TO ESQUIPULAS AGREEMENT

On January 15 and 16, the presidents of the five Central American nations met to assess the peace process initiated by Costa Rican President Arias, and to consider the report of the International Commission.

At the end of the meeting, the presidents issued a joint communique declaring that since the obligations assumed in Esquipulas II have not yet been totally met, "the Presidents undertake to meet unconditional and unilateral obligations that oblige the governments to total and inexcusable compliance. These include a dialog, talks to arrange a cease-fire, a general amnesty, and, above all, democratization, which necessarily includes the lifting of any state of emergency, complete freedom of the press, political pluralism, and putting an end to special tribunals." The joint presidential communique also states that compliance requires compulsory verification with particular reference to the cessation of aid to irregular forces. (See appendix 5 for text of joint communique.)

ORTEGA ANNOUNCES NEW CONCESSIONS

Before the release of the communique, President Ortega announced that the Government of Nicaragua would suspend the state of emergency and reinstate constitutional guarantees. He agreed to conduct direct talks with the Nicaraguan resistance on a cease-fire. He also linked implementation of a very broad amnesty law to successful conclusion of cease-fire talks; or alternatively, a decision by a non-Central American government to accept Nicaraguan political prisoners prior to a cease-fire agreement.

Several days later, the law establishing the People's Tribunals was repealed. On January 21, Victor Tinoco, Nicaragua's Vice Foreign Minister, proposed the establishment of a special international commission, with United States participation, to assure that members of the Nicaraguan resistance who choose to take part in the political life of Nicaragua will be granted their full political rights.

Tinoco also proposed that after a cease-fire agreement has been concluded, the Nicaraguan resistance would be able to receive humanitarian assistance from other governments, provided it was delivered through international relief agencies or on terms mutually agreed to in the context of the cease-fire arrangement.

On January 26, the Nicaraguan Government announced permission for 13 radio and print news organizations to begin operations—an outgrowth of the lifting of the state of emergency. Some of these media organizations had been banned from operation since 1982.

RESISTANCE AND NICARAGUAN GOVERNMENT MEET IN DIRECT TALKS

The first direct meeting of the Nicaraguan Government and Contra negotiating teams on a cease-fire took place January 28, in San Jose, Costa Rica. A second meeting was held on January 29. Two earlier indirect negotiating sessions, held in the Dominican Republic with Cardinal Obando y Bravo acting as intermediary, ended without result.

The discussions between the government and the resistance have made limited progress because of a fundamental disagreement over the scope of the negotiations. However both sides characterized the first round of direct talks in San Jose as positive. The negotiators agreed to meet again February 10–12, in Guatemala City, for the next round of talks with the concurrence of mediator Cardinal Obando y Bravo.

Committee Action

On January 27, pursuant to provisions of H.J. Res. 395, the President transmitted his request for continued lethal and nonlethal assistance to the Contras. On January 28, Senator Dole (for himself and Senators Simpson, Stevens, McCain, Hollings, Bentsen, Shelby, and Stennis) introduced S.J. Res. 243—a resolution approving the additional authority and assistance requested by the President. The resolution was referred to the Committee on Foreign Relations.

On February 2, the committee met in a business meeting to consider S.J. Res. 243 and reported the measure unfavorably to the Senate by a vote of 10–0; Senators Pell, Biden, Sarbanes, Cranston, Dodd, Kerry, Simon, Sanford, Adams, and Moynihan voting in the affirmative.

Committee Comments

The committee believes that it was most unfortunate that the President chose to submit a request which stands in stark violation to the terms of the Esquipulas II Agreement. The committee wonders why the administration made this choice in light of the fact that it has always strongly articulated the view that the United States bears a moral obligation not to leave the Contras "high and dry," without food, clothing, shelter, or medical supplies. The administration could have fashioned a request for additional assistance to the Contras which was consistent with the Esquipulas II Agreement. Namely, it could have requested additional truly humanitarian assistance to be distributed through appropriate regional and international entities and thereby fulfilled its moral obligation. For reasons best known to itself, it chose not to do so.

The committee believes that the less than candid manner in which the administration has presented its request does not serve its interest or the interest of the Congress. The facts are quite clear—this request is a request for more than $60 million in additional assistance to the Contras. On an annual basis it represents a significant increase over past U.S. funding of the Contras. The efforts by the administration to "bury" the real cost of the package, and to present it as a "modest" scaled-down request reinforces suspicions about the administration's true commitment to the peace process.

The committee is also concerned about the loosely defined nature of the so-called nonlethal assistance. The administration's refusal to provide this committee with a detailed accounting of how it intends to spend the funds only deepen suspicions that much of what has been called "nonlethal" will be of a military nature to continue the war effort.

In deciding to report the resolution unfavorably to the Senate, the committee considered the history of the Reagan administration's policy with respect to Central America in general and Nicaragua specifically. The Congress and the American people have been seeking a resolution to the armed conflict in Nicaragua since 1981, when United States involvement in funding the Contras first began.

Each year since 1981, in continuing to provide assistance to the Contras Congress urged the administration and Central American

participants in the conflicts to make every effort to resolve these differences diplomatically and politically, rather then through the force of arms. Each year the administration has sought more funding for the Contras because, in its view, no diplomatic solution was at hand. Reluctantly and intermittently, Congress voted to continue funding the Contras, albeit by increasingly narrow margins.

The committee does not believe that assistance to the Contras has been money well spent. In 7 years of funding the Contras, very little in the way of concrete results can be shown. Quite to the contrary, the committee believes that the evidence strongly indicates that the policy has been a dismal failure at encouraging or pressuring the Nicaraguan Government to democratize.

The Nicaraguan Government responded to the United States Contra policy by imposing increasingly repressive measures against its citizens. A state of emergency was imposed, the representatives of the Catholic Church and the political opposition were increasingly harassed and in certain cases expelled from Nicaragua. The leading opposition newspaper, La Prensa was closed, and radio stations such as Radio Catolica were silenced.

The committee views the culmination of the efforts of the five Central American Presidents in Guatemala City on August 7, and in San Jose on January 16 as important milestones along the road to achieving a peaceful settlement to the conflicts which have plagued the region, in some cases for decades—not only in Nicaragua, but in El Salvador and Guatemala as well. The renewed commitment of these presidents to continue to work toward "total and essential compliance" with the agreement takes the region one step closer to peace, in the opinion of the committee.

The committee is aware of the exhaustive report of the International Verification and Follow-Up Commission (International Commission), whose configuration and duties were specified in the Esquipulas II Agreement. That report makes clear that full compliance with all the provisions of the agreement remains incomplete. However, the committee shares the conclusion of the International Commission that, "the task at this stage is not therefore to proclaim the success or failure of a process which is ongoing, but rather to evaluate the progress attained, identify work to be done, and ways to do it."

The committee is cognizant of the fact that, in making any assessment of full compliance with the agreement, it must take into account that such compliance is not entirely within the control of its signatories. For example, the United States, the Soviet Union, and Cuba must cease all assistance to insurgency movements and guerrilla forces if the agreement is to be fully implemented.

The committee believes that the Esquipulas II Agreement represents the first real chance at a diplomatic-political solution to the conflicts in the region since the United States first embarked on its policy of providing assistance to the Nicaraguan resistance forces. In its view, the Esquipulas II Agreement deserves the full support of the United States Government. The committee must therefore oppose any action which it believes would put at risk the successful implementation of the agreement. Unfortunately, it is the view of the committee that the President's pending request to continue assistance to the Contras would do just that. For that reason the com-

mittee strongly recommends that the full Senate reject this request when it is considered on February 4.

The committee recognizes that the Esquipulas II Agreement is first and foremost an effort by Central Americans to bring about peace in their region and exercise some measure of control over their own destiny. It notes in particular the eloquent plea by President Arias during the occasion of his acceptance of the Nobel Peace Prize on December 10:

> Let Central Americans decide the future of Central America. Leave the interpretation and implementation of our plan to us. Support the efforts for peace instead of the forces of war in our region.

The committee believes that President Arias' request should be respected.

Section-by-Section Analysis

H.J. Res. 243 consists of one paragraph, as specified by Section 111 of H.J. Res. 395, stating that the Congress approves the additional authority and assistance for the Nicaraguan resistance forces, which were formally sought by the President on January 27, 1988. If enacted, this resolution would provide the additional assistance and authority sought by the President.

Cost Estimate

The committee is not able to provide a detailed budget estimate because the shortness of time made it impractical to do so.

Evaluation of Regulatory Impact

In accordance with Rule XXVI of the Standing Rules of the Senate, the committee has concluded that there is no regulatory impact to S.J. Res. 243.

Changes in Existing Law

The shortness of time made compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate impractical.

H.J. Res. 395

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ASSISTANCE TO THE NICARAGUAN DEMOCRATIC RESISTANCE

SEC. 111. (a) There are hereby transferred to the President $3,600,000 of unobligated funds, from such accounts for which appropriations were made by Department of Defense appropriations acts for the fiscal year 1987 or prior years, as the President shall designate, to provide humanitarian assistance to the Nicaraguan democratic resistance consistent with this section, to remain available through February 29, 1988.

(b)(1) The President is authorized to transfer or reprogram $4,500,000 of unobligated funds from such accounts for which appropriations were made by Department of Defense appropriations acts for the fiscal year 1987 or prior fiscal years, as the President shall designate, to provided transportation of humanitarian and other assistance previously, specifically authorized by law to the Nicaraguan democratic resistance, to remain available through February 29, 1988.

(2)(A) Transportation under paragraph (1) for lethal assistance previously authorized by law shall be suspended on January 12, 1988 and shall resume thereafter only if, after January 18, 1988, the President determines and certifies to the Congress that:

(i) at the time of such certification no ceasefire is in place that was agreed to by the Government of Nicaragua and the Nicaraguan democratic resistance;

(ii) the failure to achieve the ceasefire described in subparagraph (A)(i) results from the lack of good faith efforts by the Government of Nicaragua to achieve such a ceasefire; and

(iii) the Nicaraguan democratic resistance has engaged in good faith efforts to achieve the ceasefire described in subparagraph (A)(i).

(B) Transportation under paragraph (1) for lethal assistance previously authorized by law shall be suspended during any period in which there is in place a ceasefire described in subparagraph (A)(i), except to the extent, if any, permitted by the agreement governing such ceasefire.

(c)(1) The Department of Defense shall, through February 29, 1988, make available to the department or agency administering this section passive air defense equipment to ensure the safety of transportation provided pursuant to this section.

(2) The Department of Defense shall not charge the department or agency receiving equipment under paragraph (1) for such equipment, and shall bear the risk of loss, damage or deterioration of such equipment during the period of its use under the authority of paragraph (1).

(d)(1) The President is authorized to transfer unobligated funds from such accounts for which appropriations were made by Department of Defense appropriations acts for the fiscal year 1987 or prior fiscal years, as the President shall designate, solely for the indemnification through February 29, 1988 of aircraft leased after the date of enactment of this joint resolution to carry out subsection (b).

(2) On March 1, 1988, the President shall transfer the balance, if any, remaining of funds transferred under paragraph (1) to the accounts from which such funds transferred under paragraph (1).

(e) As used in this section, the term "humanitarian assistance" means only food, clothing, shelter, medical services, medical supplies, and payment for such items.

(f) The requirements, terms and conditions of section 104 of the Intelligence Authorization Act, Fiscal Year 1988 (Public Law 100-178), section 8144 of the Department of Defense Appropriations Act, 1988 as contained in section 101(b) of this joint resolution, section

10 of Public Law 91-672, section 502 of the National Security Act of 1947, section 15(a) of the State Department Basic Authorities Act of 1956, and any other provision of law shall be deemed to have been met for the transfer and use consistent with this section of the funds made available by subsections (a), (b), and (d), and the transfer and use of equipment as provided in subsection (c).

(g) The authority to support, monitor, and manage the activities for which this section provides funds shall continue until February 29, 1988.

(h) Sections 203(e), 204(b), 207, 209(b), 209(c) and 216, and the first sentence of section 203(d), in "TITLE II—CENTRAL AMERICA" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591) shall apply with respect to funds made available by this section.

(i) If, on January 17, 1988, a cease-fire agreed to by the Government of Nicaragua and the Nicaraguan democratic resistance is in place and the Government of Nicaragua is in compliance with the Guatemala Peace Accord of August 7, 1987, then the President shall, to the maximum extent practicable, make the unobligated balance of funds transferred by subsection (a) available for administration consistent with this section by nonpolitical humanitarian international organizations.

(j) (1) The President may submit to Congress, no earlier than January 25, 1988 and no later than January 27, 1988, a request in accordance with this section for budget and other authority to provide additional assistance for the Nicaraguan democratic resistance.

(2) Only if a joint resolution approving a request made pursuant to subsection (j)(1) has been enacted into law, the President may submit to Congress one additional request under this section for budget and other authority to provide additional assistance for the Nicaraguan democratic resistance.

(3) It is the sense of Congress that any request in accordance with this section should be compatible with the Guatemala Peace Accord of August 7, 1987, and the decisions reached by the Central America presidents at the meeting on the report of the International Commission of Verification and Followup, and consistent with the national security interests of the United States.

(4) Each request of the President in accordance with this section shall include a detailed statement of the steps that the United States, the Central American nations, and other interested parties have taken in support of the Guatemala Peace Accord of August 7, 1987, and of any cease-fire agreed to by the Government of Nicaragua and the Nicaraguan democratic resistance, as well as a report on any progress made in any bilateral or multilateral talks between the United States and the Government of Nicaragua.

(5) If a request of the President in accordance with this section proposes the transfer of funds, the request shall specify the accounts from which the funds are proposed to be transferred.

(6) For purposes of this section, the term "joint resolution" means only a joint resolution introduced within one day of session after the day of session on which the Congress receives the request submitted by the President pursuant to paragraphs (1) or (2)—

(A) the matter after the resolving clause of which is as follows: "That the Congress hereby approves the additional authority and assistance for the Nicaraguan democratic resistance that the President requested pursuant to H.J. Res. 395 of the 100th Congress, the act making continuing appropriations for fiscal year 1988.";

(B) which does not have a preamble; and

(C) the title of which is as follows: "Joint Resolution relating to Central America pursuant to H.J. Res. 395 of the 100th Congress.".

(7) Any such joint resolution shall, upon introduction, be referred in the House of Representatives to the appropriate committee or committees.

(8) If all of the committees of the House of Representatives to which the first joint resolution approving a request made pursuant to subsection (jX1) has been referred have not reported such joint resolution by the end of February 1, 1988, any committee which has not reported such joint resolution shall be discharged from further consideration thereof on February 2, 1988 and such joint resolution shall be placed on the appropriate calendar of the House.

(9) If all of the committees of the House of Representatives to which the first joint resolution approving a request made pursuant to resolution (jX2) has been referred have not reported such joint resolution by the end of ten days of session after such joint resolution was introduced, any committee which has not reported such joint resolution shall be discharged from further consideration thereof and such joint resolution shall be placed on the appropriate calendar of the House.

(10) On February 3, 1988, it is in order for any Member of the House of Representatives (after consultation with the Speaker as to the most appropriate time for consideration) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution approving a request made pursuant to subsection (jX1).

(11) It is in order for any Member of the House of Representatives (after consultation with the Speaker as to the most appropriate time for consideration) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution approving a request made pursuant to subsection (jX2) at any time after such joint resolution has been on the calendar for a period of five days of session, except that it shall not be in order to consider such joint resolution prior to July 1, 1988.

(12) In the House of Representatives, the vote on final passage of the joint resolution approving a request made pursuant to subsection (jX1) shall occur no later than February 3, 1988, and the vote on final passage of the joint resolution approving a request made pursuant to subsection (jX2) shall occur no later than September 30, 1988.

(k) (1) The motion that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of a joint resolution in accordance with this section is highly privileged and is in order even though a previous motion to the same effect has been disagreed to. All points of order against the joint resolution and against its consideration are waived. If the motion is agreed to, the resolution shall remain the unfinished business of the House until disposed of.

(2) Debate on the joint resolution shall not exceed ten hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion to limit debate is in order at any time in the House or in the Committee of the Whole and is not debatable.

(3) An amendment to the joint resolution is not in order.

(4) At the conclusion of the debate on the joint resolution, the Committee of the Whole shall rise and report the joint resolution back to the House, and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion.

(1) (l) A joint resolution described in subsection (jX6) introduced in the Senate shall be referred to the appropriate committee of the Senate.

(2) If the committee to which is referred a joint resolution described in subsection (jX6) has not reported such a resolution at the end of February 2, 1988, in the case of a resolution approving a request made pursuant to subsection (jX1), hereinafter referred to as the first resolution, and at the end of 15 days of session after the introduction of a resolution approving a request made pursuant to subsection (jX2) hereinafter referred to as the second resolution, such committee shall be discharged from further consideration of any such joint resolution. The second such resolution may not be reported before the eighth day of session after its introduction.

(3) (A) When the committee to which a resolution is referred has reported, or has been discharged (under paragraph (2)) from further consideration of, a resolution described in subsection (j)(6), notwithstanding any rule or precedent of the Senate, including Rule 22, it is in order only on February 4, 1988 in the case of the first, and any time in July, August or September 1988 in the case of the second (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is not debatable. The motion is not subject to a motion to postpone. A yea and nay vote shall occur on the motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the Senate until disposed of.

(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between the Majority and the Minority Leaders or their designees. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of debate on a resolution described in subsection (j)(6), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on passage of the resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution described in subsection (j)(6) shall be decided without debate.

(E) The vote on passage of the first such joint resolution in the Senate shall occur no later than 10:00 p.m., February 4, 1988 and on the second such joint resolution not before July 1, 1988 and no later than 10:00 p.m., September 30, 1988.

(4) If, before the passage by the Senate of a resolution of the Senate described in subsection (j)(6), the Senate receives from the House of Representatives a resolution described in subsection (j)(6), then the following procedures shall apply:

(A) The resolution of the House of Representatives shall not be referred to a committee.

(B) With respect to a resolution described in subsection (j)(6) in the Senate—

(i) the procedure in the Senate shall be the same as if no resolution had been received from the House; but

(ii) the vote on passage shall be on the resolution of the House.

(C) Upon disposition of the resolution received from the House, it shall no longer be in order to consider the resolution originated in the Senate.

(5) If the Senate receives from the House of Representatives a resolution described in subsection (j)(6) after the Senate has disposed of a Senate originated resolution, the action of the Senate with regard to the disposition of the Senate originated resolution shall be deemed to be the action of the Senate with regard to the House originated resolution.

(m) (1) Section 215 in "TITLE II—CENTRAL AMERICA" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591), and subsections (p), (s) and (t) of Section 722 of the International Security and Development Cooperation Act of 1985 are hereby repealed, and the provisions of section 8066 of the Department of Defense Appropriations Act, 1985, as contained in Public Law 98-473, shall not apply to any request for assistance to the Nicaraguan democratic resistance.

(2) Subsections (j)-(1) are enacted—

(A) as and exercise in the rulemaking powers of the House of Representatives and Senate, and as such they are deemed a part of the Rules of the House and the Rules of the Senate, respectively, but applicable only with respect to the procedure to be followed in the House and the Senate in the case of joint resolutions under this section, and they supersede other rules only to the extent that they are inconsistent with such rules; and

(B) with full recognition of the constitutional right of the House and the Senate to change their rules at any time, in the same manner, and to the same extent as in the case of any other rule of the House or Senate, and of the right of the Committee on Rules of the House of Representatives to report a resolution for the consideration of any measure.

(3) As used in this subsection, the term "day of session" means a day on which the respective House is in session.

Appendix 2

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release January 27, 1988

January 27, 1988

REQUEST FOR ASSISTANCE

FOR THE NICARAGUAN DEMOCRATIC RESISTANCE

In accordance with the Constitution and laws of the United States of America, as President of the United States of America, and pursuant to section 111(j)(1) of the joint resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100-202), I hereby request budget and other authority to provide additional assistance for the Nicaraguan democratic resistance, as follows:

SEC. 101. POLICY.

(a) GENERAL POLICY.-- It is the policy of the United States in implementing this request to advance democracy and security in Central America, and thereby to assist in bringing a just and lasting peace to that region, in a manner compatible with the Guatemala Peace Accord of August 7, 1987 and the Declaration of the Presidents of the Central American Nations at San Jose, Costa Rica on January 16, 1988, and consistent with the national security interests of the United States.

(b) SPECIFIC POLICY OBJECTIVE.-- In pursuing the policy set forth in subsection (a), it is the objective of the United States to enhance its security as well as that of the democratic countries of Central America by assisting in the achievement of--

(1) genuine democracy in Nicaragua;

(2) an end to Soviet, Cuban, and other Communist bloc military or security assistance to, advisers in, and establishment or use of bases in, Nicaragua;

(3) an end to Nicaraguan aggression and subversion against other countries in Central America; and

(4) reduction of the military and security forces of Nicaragua to a level consistent with the security of other countries in the region.

SEC. 102. TRANSFER OF PRIOR DEFENSE APPROPRIATIONS FOR ASSISTANCE.

(a) TRANSFER AND USE.-- Upon enactment of a joint resolution approving this request, there are hereby transferred to the President $36,250,000 of unobligated funds, from the appropriations accounts specified in section 106, to provide assistance for the Nicaraguan democratic resistance, to remain available until expended.

(b) EARMARK FOR NON-LETHAL ASSISTANCE INCLUDING HUMAN RIGHTS.-- Of the funds transferred by subsection (a), $32,650,000 shall be available only for non-lethal assistance, of which $450,000 shall be available only for strengthening programs and activities of the Nicaraguan democratic resistance for the observance and advancement of human rights.

more (OVER)

(c) PROHIBITION ON PURCHASE OF AIRCRAFT.-- Funds transferred by subsection (a) may not be obligated or expended to purchase aircraft.

(d) INDEMNIFICATION OF LEASED AIRCRAFT.-- (1) The President is authorized to transfer unobligated funds, from the appropriations accounts specified in section 106, solely for the indemnification of aircraft leased to transport assistance for which this request provides and assistance previously, specifically authorized by law for the Nicaraguan democratic resistance.

(2) Not more than $20,000,000 may be transferred under the authority granted by paragraph (1).

(3) The President shall transfer the balance, if any, remaining of funds transferred under paragraph (1) to the appropriations accounts from which such funds were transferred under that paragraph when the funds transferred by subsection (a) have been expended.

(e) PASSIVE AIR DEFENSE EQUIPMENT.-- (1) The Department of Defense shall make available to the department or agency administering this request passive air defense equipment (including ground-based radio detection and ranging equipment) to ensure the safety of transportation provided pursuant to this request.

(2) The Department of Defense shall not charge the department or agency receiving equipment under paragraph (1) for such equipment, and shall bear the risk of loss, damage, or deterioration of such equipment during the period of its use under the authority of paragraph (1).

(f) INITIATION OF DELIVERY OF ADDITIONAL ASSISTANCE.-- No assistance for which this request provides shall be delivered to the Nicaraguan democratic resistance prior to March 1, 1988.

SEC. 103. RESTRICTIONS ON LETHAL ASSISTANCE.

(a) PROHIBITION.--After February 29, 1988, no lethal assistance may be delivered to the Nicaraguan democratic resistance, except as provided in subsection (b).

(b) RESUMPTION OF LETHAL ASSISTANCE.-- Lethal assistance may be delivered to the Nicaraguan democratic resistance if, after March 31, 1988, the President determines and certifies to the Speaker of the House of Representatives and the President of the Senate that--

(1) at the time of such certification no ceasefire is in place that was agreed to by the Government of Nicaragua and the Nicaraguan democratic resistance;

(2) the failure to achieve the ceasefire described in paragraph (1) results from the lack of good faith efforts by the Government of Nicaragua to comply with the requirements of the Declaration of the Presidents of the Central American Nations at San Jose, Costa Rica on January 16, 1988; and

(3) the Nicaraguan democratic resistance has engaged in good faith efforts to achieve the ceasefire described in paragraph (1).

(c) SCOPE.-- The lethal assistance to which subsections (a) and (b) refer is lethal assistance for which this request provides and lethal assistance previously authorized by law.

(d) SUSPENSION DURING CEASEFIRE.-- Delivery of lethal assistance to the Nicaraguan democratic resistance for which this request provides, or which was previously authorized by law, shall be suspended during any period in which there is in place a ceasefire agreed to by the Government of Nicaragua and the Nicaraguan democratic resistance, except to the extent, if any, permitted by the agreement governing such ceasefire.

SEC. 104. GENERAL AUTHORITIES AND LIMITATIONS.

(a) RELATED STATUTES.-- The requirements, terms and conditions of section 104 of the Intelligence Authorization Act, Fiscal Year 1988 (Public Law 100-178), section 8144 of the Department of Defense Appropriations Act, 1988 (as contained in section 101(b) of Public Law 100-202), section 10 of Public Law 91-672, section 502 of the National Security Act of 1947, section 15(a) of the State Department Basic Authorities Act of 1956, and any other provision of law shall be deemed to have been met for the transfer and use consistent with this request of the funds made available by section 102(a) and (d), and the transfer and use of equipment as provided in section 102(e).

(b) CONTINUATION OF AUTHORITY TO SUPPORT, MONITOR, AND MANAGE.-- The authority to support, monitor and manage activities for which funds are provided under this request or a law which previously, specifically authorized assistance to the Nicaraguan democratic resistance shall continue until the funds transferred by section 102(a) have been expended.

(c) CONTINUATION OF LIMITATIONS.-- Sections 203(e), 204(b), 207, 209(b), 209(c) and 216, and the first sentence of section 203(d), in "TITLE II -- CENTRAL AMERICA" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591), shall apply with respect to funds made available under this request.

SEC. 105. REQUIRED DETAILED STATEMENTS AND REPORT.

(a) INCORPORATION OF DETAILED STATEMENTS AND REPORT BY REFERENCE.-- The report of the Secretary of State dated January 27, 1988 and transmitted with this request is hereby incorporated in this section by reference.

(b) STATUS OF STATEMENTS AND REPORT.-- (1) The detailed statements and report, included in the report of the Secretary of State and incorporated in this section by reference, are those required by section 111(j)(4) of the joint resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100-202).

(2) Enactment of the joint resolution approving this request shall not be deemed to constitute agreement or disagreement by the Congress or any Member thereof with the statements and report incorporated by reference in this section.

SEC. 106. DEFENSE APPROPRIATIONS ACCOUNTS.

The appropriations accounts to which sections 102(a) and 102(d) refer are--

(1) Missile Procurement, Army, Department of Defense Appropriations Act, 1986, as contained in section 101(b) of the further continuing appropriations resolution for the fiscal year 1986 (Public Law 99-190);

(2) Aircraft Procurement, Army, Department of Defense Appropriations Act, 1986, as contained in section 101(b) of the further continuing appropriations resolution for the fiscal year 1986 (Public Law 99-190);

(3) Shipbuilding and Conversion, Navy, Department of Defense Appropriations Act, 1984 (Public Law 98-212); and

(4) Missile Procurement, Air Force, Department of Defense Appropriations Act, 1986, as contained in section 101(b) of the further continuing appropriations resolution for the fiscal year 1986 (Public Law 99-190).

SEC. 107. DEFINITIONS.

As used in this request--

(1) the term "lethal assistance" means weapons, weapon systems, and ammunition; and

(2) the term "non-lethal assistance" means assistance other than lethal assistance.

RONALD REAGAN

# # #

DEPARTMENT OF STATE
DIVISION OF LANGUAGE SERVICES

Appendix 3

(TRANSLATION)

LS NO. 122853
DHS/LM
Spanish

The Esquipulas II Agreement

"Voices calling out and hopeful
winds seeking a joyous peace for all."
Arturo Echeverría Loria

PREAMBLE

The Presidents of the Republics of Guatemala, El Salvador, Honduras, Nicaragua, and Costa Rica, meeting in Guatemala City on August 6 and 7, 1987, encouraged by the vision and continuing desire of Contadora and the Support Group in favor of peace, strengthened by the constant support of all the governments and peoples of the world, their principal international organizations and, especially by the European Economic Community and His Holiness John Paul II, inspired by Esquipulas I, and having gathered together in Guatemala in order to discuss the peace plan presented by the Government of Costa Rica, have agreed to:

- Assume fully the historic challenge to forge a destiny of peace for Central America,

- Undertake to fight for peace and eliminate war,

- Make dialogue prevail over violence, and reason over rancor,

--Dedicate these peace efforts to the youth of Central America, whose legitimate aspirations for peace and social justice, for freedom and reconciliation, have been frustrated for many generations.

- Establish the Central American Parliament as a symbol of freedom and independence of the reconciliation to which we in Central America aspire.

We ask for the respect and assistance of the international community in our efforts. Central American has its own pathways to peace and development, but we need help to make them a reality. We ask for an international agreement that would ensure development so that the peace we seek may be a lasting one. We firmly reiterate that peace and development are inseparable.

We express our appreciation to President Vinicio Cerezo Arévalo and to the noble people of Guatemala for having served as the host for this meeting. The generosity of the Guatemalan people and their leader has been vital in creating the climate in which the peace agreements were adopted.

PROCEDURE FOR ESTABLISHING A STABLE AND LASTING PEACE IN CENTRAL AMERICA

The Governments of the Republics of Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua, having undertaken to achieve the objectives and develop the principles established in the United Nations Charter, the Charter of the Organization of America States, the Document of Objectives, the Caraballeda Message for Peace, Security, and Democracy in Central America, the Guatemala Declaration, the Punta del Este Communiqué, the Panama Message, the Esquipulas Declaration, and the draft Contadora Act for Peace and Cooperation in Central America of June 6, 1986, have agreed upon the following procedure for establishing a stable and lasting peace in Central America.

1. National Reconciliation

(a) Dialogue

To carry out urgently, in those cases in which deep divisions have occurred within a society, actions of national reconciliation to allow the people to participate, with full guaranties, in authentic political processes of a democratic nature, on the basis of justice, freedom, and democracy and, for that purpose, to establish mechanisms for dialogue with opposition groups, in accordance with the law.

To that end, the respective Governments shall initiate dialogue with all domestic political opposition groups that have laid down their arms and with those that have accepted the Amnesty.

(b) Amnesty

In each Central American country, except in those where the International Evaluation and Follow-up Committee determines that it is not necessary, decrees of amnesty shall be issued which shall establish all the provisions to guarantee the inviolability of life, freedom in all its forms, property, and the security of the persons to whom such decrees apply. Simultaneously with the issue of the amnesty decrees, the irregular forces in the respective country shall release any persons they may be holding.

(c) National Reconciliation Committee

In order to verify the fulfillment of the commitments undertaken by the five Central American Governments upon signing this document, with regard to amnesty, ceasefire, democratization, and free elections, a National Reconciliation Committee shall be

created. Its function shall be to determine whether the process of national reconciliation is actually underway, and whether there is absolute respect for all the civil and political rights of Central American citizens guaranteed herein.

The National Reconciliation Committee shall be composed of one regular delegate and one alternate from the Executive Branch, and one regular member and one alternate suggested by the Episcopal Conference and selected by the Government from a slate of three Bishops to be submitted within fifteen days of receipt of the formal invitation. This invitation shall be extended by the governments within five working days of the signing of this document. The same nomination procedure shall be used to select one regular member and one alternate from the legally-registered opposition political parties. The three-person slate shall be submitted in the same time period as mentioned above. Each Central American Government shall also select to serve on the committee one outstanding citizen who is not part of the government and does not belong to the government party, as well as one alternate. Copies of the agreements or decrees creating each National Committee shall be transmitted immediately to the other Central American governments.

2. Urging a cessation of hostilities

The governments vehemently urge that a cessation of hostilities be arranged in those States in the area presently experiencing the action of irregular or insurgent groups. The governments of such States undertake to carry out all actions

necessary to achieve an effective ceasefire within a constitutional framework.

3. Democratization

The governments undertake to provide the impetus for an authentic democratic process, both pluralistic and participatory, which entails the promotion of social justice, respect for human rights, sovereignty, territorial integrity of the States, and the right of all nations to choose, freely and without any outside interference whatsoever, their economic, political, and social system. Furthermore, the governments shall adopt in a verifiable manner measures conducive to the establishment and, where appropriate, improvement of democratic, representative, and pluralistic systems that will guarantee the organization of political parties and effective participation by the people in the decision-making process and ensure that the various currents of opinion have free access to fair and regular elections based on the full observance of citizens' rights. To ensure good faith in the development of this process of democratization, it shall be understood that:

(a) There must be complete freedom for television, radio, and the press which shall encompass the freedom for all ideological groups to open and maintain in operation communications media, and the freedom to operate such media without prior censorship.

(b) There shall be complete pluralism of political parties. In this respect, political groups shall have broad access

to the communications media and full enjoyment of the rights of association and the ability to hold public demonstrations in the unrestricted exercise of the right to publicize their ideas orally, in writing, and on television, as well as freedom of mobility for the members of the political parties in their campaign activities.

(c) Similarly, the Central American Governments which are maintaining in effect a state of siege or emergency shall abolish it and bring about the rule of law in which all constitutional guarantees are in effect.

4. Free elections

Once the conditions inherent in any democracy have been created, free, pluralistic, and fair elections shall be held.

As a joint gesture of the Central American States toward reconciliation and lasting peace for their peoples, elections shall be held for the Central American Parliament, which was proposed in the Esquipulas Declaration of May 25, 1986.

To that end, the Presidents have expressed their wish to move forward with the organization of the Parliament. The Preparatory Committee of the Central American Parliament shall therefore conclude its deliberations and deliver the respective draft treaty to the Central American Presidents within 150 days.

These elections shall be held simultaneously in all the countries of Central America during the first six months of 1988 on a date to be agreed upon in due course by the Presidents of these States. They shall be subject to monitoring by the appropriate electoral bodies, and the respective governments agree to extend an invitation to the Organization of American States and to the United Nations, as well as to governments of third States, to send observers to attest to the fact that the electoral procedures have been governed by the strictest rules of equal access for all political parties to the communications media, as well as extensive opportunities for holding public demonstrations and engaging in any other type of campaign propaganda.

In order that the elections for membership in the Central American Parliament may be held within the time period indicated in this section, the treaty establishing that body shall be submitted for approval or ratification in the five countries.

As soon as elections for membership in the Central American Parliament have been held, equally free and democratic elections shall be held in each country, with international observers and the same guarantees and within the established intervals and the timetables to be proposed under the present political constitutions, to select the people's representatives in the municipalities, congresses and legislative assemblies, as well as the Presidents of the Republics.

5. Cessation of aid to irregular forces and insurgent movements

The Governments of the five Central American States shall request governments in the region or those outside it that are providing, either overtly or covertly, military, logistic, financial or propagandistic aid, or assistance in the form of troops, weapons, munitions and equipment to irregular forces or insurgent movements to cease such aid, as an essential requirement for achieving a stable and lasting peace in the region.

The foregoing does not include assistance used for repatriation, or, if that does not occur, relocation, and assistance needed to accomplish the reintegration into normal life of those persons who have belonged to the above-mentioned groups or forces. Similarly, the irregular forces and insurgent groups active in Central American shall be asked to refrain from receiving such aid for the sake of a genuine Latin Americanist spirit. These requests shall be made in fulfillment of the provisions of the Document of Objectives as regards elimination of the traffic in weapons within the region or from outside sources to persons, organizations, or groups attempting to destabilize the Central American Governments.

6. Non-use of territory to attack other States

The five countries signing this document reiterate their commitment to prevent the use of their own territory and to neither furnish nor allow logistical military support for persons, organizations, or groups seeking to destabilize the Governments of the Central American countries.

7. Negotiations on security, verification, control, and limitation of weapons

The Governments of the five Central American States, with participation by the Contadora Group in the exercise of its function as mediator, shall proceed with negotiations on the points on which agreement is pending in matters of security, verification, and control under the draft Contadora Act for Peace and Cooperation in Central America.

These negotiations shall also cover measures for the disarmament of those irregular forces that are willing to accept the amnesty decrees.

8. Refugees and displaced persons

The Central American Governments undertake to address, with a sense of urgency, [the problem of] the flow of refugees and displaced persons caused by the regional crisis, by means of protection and assistance, especially with regard to health, education, employment, and security and, furthermore, to facilitate their repatriation, resettlement, or relocation, provided that it is of a voluntary nature and takes the form of individual cases.

They also undertake to arrange for aid from the international community for the Central American refugees and displaced persons, whether such assistance is direct under bilateral or multilateral agreements or obtained through the United Nations High Commissioner for Refugees (UNHCR) or other organizations and agencies.

9. Cooperation, democracy, and freedom for peace and development

In the climate of freedom guaranteed by democracy, the Central American countries shall adopt such agreements as will permit them to accelerate their development in order to achieve societies that are more egalitarian and free from misery.

The consolidation of democracy entails the creation of an economy of well-being and economic and social democracy. In order to attain those objectives the governments shall jointly seek special economic assistance from the international community.

10. International verification and follow-up

(a) International Verification and Follow-up Committee

An International Verification and Follow-up Committee shall be created, composed of the Secretaries General of the Organization of American States and the United Nations, or their representatives, as well as by the foreign ministers of Central America, the Contadora Group, and the Support Group. The functions of this committee shall be to verify and follow-up on the fulfillment of the commitments contained herein.

(b) Support and facilities for the mechanisms of reconciliation and of verification and follow-up

In order to reinforce the efforts of the International Verification and Follow-up Committee, the Governments of the five Central American states shall issue statements of support for its work. All nations interested in promoting the cause of freedom,

democracy, and peace in Central America may adhere to these statements.

The five governments shall provide all necessary facilities for the proper conduct of the verification and follow-up functions of the National Reconciliation Committee in each country, and of the International Verification and Follow-up Committee.

11. Timetable for implementing the commitments

Within 15 days of the signing of this document, the Central American foreign ministers shall meet as an Executive Committee to regulate and promote the agreements contained herein and to make their application feasible. They shall also organize the working committees so that, as from this date, the processes leading to the fulfillment of the commitments entered into within the intervals stipulated may begin through consultations, negotiations, and any other mechanisms deemed necessary.

When 90 days have elapsed from the date of the signature of this document, the commitments with regard to amnesty, ceasefire, democratization, cessation of aid to irregular forces or insurgent movements, and the non-use of territory to attack other States, as defined in this document, shall simultaneously begin to govern publicly.

When 120 days have elapsed from the date of the signature of this document, the International Verification and Follow-up Committee shall analyze the progress made in the fulfillment of the agreements provided for herein.

When 150 days have elapsed, the five Central American Presidents shall meet and receive a report from the International Verification and Follow-up Committee and shall make pertinent decisions.

Final Provisions

The points included in this document form a harmonious and indivisible whole. Signing it entails the obligation, accepted in good faith, to comply simultaneously and within the established time limits with the provisions agreed upon.

The Presidents of the five Central American States, with the political will to respond to our peoples' yearnings for Peace, hereby sign this document in Guatemala City on August 7, 1987.

OSCAR ARIAS SANCHEZ
President
Republic of Costa Rica

JOSE NAPOLEON DUARTE
President
Republic of El Salvador

VINICIO CEREZO AREVALO
President
Republic of Guatemala

JOSE AZCONA HOYO
President
Republic of Honduras

DANIEL ORTEGA SAAVEDRA
President
Republic of Nicaragua

Appendix 4

Summary of Conclusions of
The International Verification Commission

Unofficial Translation

January 14, 1988

AGREEMENT ON PROCEDURE TO ACHIEVE A FIRM
AND LASTING PEACE IN CENTRAL AMERICA:
REPORT ON COMPLIANCE

1. The International Commission on Verification and Follow - up of the Guatemala Procedure has noted the clear desire of the Central American peoples for peace, their longing for the establishment or perfection of democratic, pluralistic, and participatory government, which are the result of their will as freely expressed at the polls, and which will assure the full enjoyment of human rights, economic, development, and the overcoming of unjust and obsolete social structures, as well as the legitimate right to decide their own free destinies without outside interference. The strong desire of the Central American peoples for peace and political, economic, and social democratization is being blocked by a geopolitical fight that does not concern them and by domineering interests that have nothing to do with their own aspirations.

2. Hoping to contribute toward achieving these legitimate aspirations, which are the underlying reason for the agreements of Esquipulas II, the International Commission on Verification and Follow - up wants to make the following points regarding the five Central American governments' compliance with the commitments they made when they signed the Guatemala Procedure for establishing firm and lasting peace in the region.

3. The five Central American countries, in spite of some initial reservations, have complied with the commitment in the Procedure to form National Reconciliation Commissions.

4. There has not been a uniformity of interpretation by the five countries regarding either the criteria for organization of the National Reconciliation Commission or the way in which they take decisions. It would be well if the difficulties that have arisen were overcome.

5. In the spirit of reconciliation that sustains the Procedure it is desirable that the countries "which are experiencing deep divisions within their societies" would include among the members of the National Reconciliation Commission figures who represent the political parties or groups that are politically close to the irregular forces or insurgent movements, with the aim of strengthening their mission of reconciliation, as is the case in Nicaragua and was the case in El Salvador.

6. In effect, in the case of El Salvador, the original organization reflected the criteria set forth in the previous paragraph, but the withdrawal from the National Reconciliation

Commission of the representatives of the political parties of the opposition has created an unforeseen situation which affects its work.

7. As concerns the commitment to dialogue with all the internal political opposition groups and any who have accepted the amnesty, the International Commission on Verification and Follow-up has found that in Nicaragua, where this dialogue was begun, it has been suspended because of the withdrawal of the opposition parties. In the case of El Salvador, the International Commission on Verification and Follow-up has found that the government has carried on dialogue with wide sectors of the political opposition but that some of them consider that the government has given priority to the dialogue with the armed opposition. In Honduras and Costa Rica, according to information provided by the government in the first case and the opposition in the second, the internal dialogue takes place through the exercise of unrestricted freedom of expression in the political institutions of those countries which result in elections. For the rest, in relation to the dialogue with the political opposition, the International Commission on Verification and Follow-up is convinced that it is necessary to persist and deepen the efforts of national reconciliation.

8. El Salvador, Guatemala, Honduras and Nicaragua have issued amnesty decrees, in spite of reservations in the case of Honduras regarding whether this commitment is applicable.

In the case of Costa Rica the International Commission on Verification and Follow-up does not consider it necessary for it to issue an amnesty decree. However, since certain foreigners who reside in Costa Rica are the beneficiaries of amnesties decreed in their countries of origin, the International Commission recommends that this government study these cases so that they may obtain their freedom.

9. As concerns the content and goals of the amnesty decrees there have been critical assessments made in certain cases. In the specific case of El Salvador, where a general amnesty has been issued based on the idea of forgive-and-forget, the International Commission has noted that the decree of amnesty has benefited political prisoners; but that it only allowed a period of fifteen days for those under arms to avail themselves of it.

10. In the case of Nicaragua, although the government of this country has issued a decree of amnesty to those who have taken up arms which continues to be in force and has issued a law of pardon, the entry into force of the amnesty decree for prisoners has been conditioned on the certification by the International Commission on Verification and Follow-up compliance in the cessation of aid to irregular forces by states within and without the region, as well as the nonuse of territory for destabilizing attacks.

11. As regards the scope of application of the amnesty, the International Commission has heard testimony that in several countries there was to a varying degree a systematic practice, during previous government, of the physical elimination of captured members of irregular groups or insurgent forces, who could have availed themselves of the recent decrees issued by the present governments.

12. It should be understood that the purpose of the amnesty is to open up political spaces in some countries to allow opposition groups to rejoin democratic life, mainly those who have taken up arms. It is consequently premature to issue a definitive judgment on the effectiveness of the amnesty decrees as an instrument of national reconciliation.

13. Point 3 of the Guatemala Procedure sets forth a broad scheme for democratization, difficult to achieve in scarcely five months in a region characterized by a turbulent history.

14. It is fair to recognize the stability and broad level of development of the democratic institutions of Costa Rica.

15. In the case of Nicaragua, the International Commission has been able to confirm that in spite of the wartime suffering it has made concrete steps toward initiating a democratic process. Nevertheless, certain spokepersons of opposition parties and nongovernmental organizations have said that it is necessary to observe greater distinction between state and party institutions and it is necessary to more broadly assure the exercise of civil and political rights.

16. According to the vast majority of information sources consulted, the intention of the Central American presidents to make possible the effective participation of diverse currents of opinion in democratic life and to promote the protection of human rights is impeded in certain countries by abuses of authority by security forces and by the action of paramilitary groups. The International Commission also received accusations of human rights violations committed by irregular forces or insurgent movements.

17. The International Commission on Verification and Follow-up has confirmed that there does not exist a states of exception, siege, or emergency in Costa Rica, El Salvador, Guatemala, and Honduras. The Commission has received information that in El Salvador a decree-law is in effect that allows the authorities to detain a person for more than seventy-two hours. In Nicaragua, the lifting of the state of emergency is subject to the Commission's certification that the aid to irregular forces from states within and without the region has been stopped and that use of territory for destabilizing other states has ceased. The government said that in practice the application of the state of emergency is applied flexibly. In more than one country the inoperation, in practice, of the right of asylum or of habeas

corpus means that often detentions occur longer and under worse conditions than provided by law.

18. The International Commission has noted with satisfaction the preparations for the establishment of the Central American Parliament in the five countries. The creation of this important institution will represent a significant advance in the process of democratization and will fortify the political, social and economic unity of the countries in the region.

19. In spite of the efforts made, the lack of agreement on a cease-fire in the countries with irregular forces or insurgent movements and the intensification of fighting since the signing of Esquipulas II, with the consequent human and material losses, is a reason for deep concern.

20. There has been no success with the appeals to irregular forces or insurgent movements in El Salvador, Guatemala and Nicaragua to agree on a cease-fire or to avail themselves of the amnesty and join the political process in their respective countries, as foreseen in the Guatemala Procedure.

21. In spite of the exhortation of the Central American presidents the government of the United States of America maintains its policy and practice of providing assistance, military in particular, to the irregular forces operating against the government of Nicaragua. The definitive cessation of this assistance continues to be an indispensable requirement for the success of the peace efforts and off this Procedure as a whole.

At the same time we have received the accusation of the government of El Salvador that Nicaragua secretly sends help to the irregular forces in its country and that the suspension of this aid is an indispensable prerequisite for the success of the peace efforts of the Procedure as a whole. The International Commission on Verification and Follow-up has received the denial given by the government of Nicaragua in relation to this accusation.

22. In relation to the commitment not to utilize the territory of one state to attack another, the International Commission has noted accusations by certain governments of the region and the testimony of nongovernmental sources about the aid irregular forces or insurgent movements which other Central American governments are providing and the use of territory of certain states to attack others. In this sense, it has received accusations by El Salvador against Nicaragua and by Nicaragua against Honduras, El Salvador, and Costa Rica. The respective governments said that they could not accept such accusations without knowing their basis and substantiation. They expressed their willingness to allow an unconditional inspection of their territories. The International Commission must note that the use of territory of the states of the region to attack others with or without the consent of the government whose territory is being so

used facilitates the activities of these irregular forces or movements and makes more difficult the attainment of peace. The International Commission is still not in a position to verify what was said above because to date it has no power to set up mechanisms for on-site inspection.

23. Regarding compliance with the mandate in point 7 of the Guatemala Procedure, the International Commission on Verification and Follow-up took note with satisfaction of the meeting in Caracas on December 10, 1987 to carry out the decision of the executive Commission meeting in San Jose on October 27 -28, 1987 to continue the negotiations on the pending aspects the Contadora Act on matters of security, verification and control, and on the disarmament of irregular forces who are ready to avail themselves of the amnesty decrees. The meeting took place with the participation of the five Central American countries and the Contadora Group in exercise of its mediating function.

The negotiations resulted in a refinement of the terms of reference of future negotiations, e.g.: commitments on arms and troops; military exercises; procedural and operational aspects of the formation or statutes of the Commission for Verification and Control in matters of security; and means for disarmament of irregular forces.

Agreement was reached on organizing future work and meetings to take place in the Contadora Group countries with their coordination. The next meeting will take place in Panama in the first week of February 1988 and Colombia has offered itself as the site for the subsequent meeting.

24. As regards refugees, the International Commission has noted with satisfaction the steps taken in both creating institutional forms and in concrete acts such as protection, assistance, and voluntary repatriation which are clear advances in the search for humanitarian solutions to the problems of the region. In this sense, the holding in the course of this year of an international conference on Central American refugees sponsored by the governments of the area with the collaboration of the United Nations High Commissioner on Refugees would be a significant contribution to the peace effort. The situation of displaced people continues to be a grave problem of humanitarian character whose solution requires additional urgent efforts. The achievement of the goal of Esquipulas II would contribute substantially to a real solution of the problem of the refugees and displaced.

25. The goals of Esquipulas II which encompass the achievement of peace through a cessation of hostilities, amnesty, democratization, the cessation of aid to irregular forces and insurrectional movements, and the non-use of territory for attacking other states, have not been completely achieved as of this date. The fact that peace has not been attained does not detract from the validity of the Guatemala Procedure. It makes a

lasting political will for overcoming these obstacles even more imperative.

26. In evaluating the progress in complying with the Procedure For Establishing a Firm and Lasting Peace in Central America signed in Guatemala on August 7, 1987, it is important to understand that, just as its name implies, this procedure is a continuing process of ongoing actions. For this reason, 150 days after the signing of the accord, it would be as untrue to deny progress as it would be to claim success.

27 It must be remembered that just as the deterioration of the political, economic, and social structure of Central America did not occur suddenly, so peace in the area also cannot be obtained suddenly. The factors are by their nature complex and operate at different levels at the same time. Many of the actors on the Central American scene are not part of the accord signed by the interested parties, who are the chiefs of state of the region. The challenge is enormous because it wishes to put into practice a consistent, universally satisfactory, simultaneous, and verifiable agreement, which applies to certain parties who are part of the conflict but not signatories to the agreement. The task at this stage is no therefore to proclaim the success or failure of a process which is ongoing but rather to evaluate the progress attained, identify the work to be done, and find ways to do it.

29. It is necessary to note the concern manifested by various non-Central American members of the International Commission on Verification and Follow-up in regard to the modality of participation by the Central American countries, which are parties to the conflict, in the task of verification. The Presidents can examine these concerns in their next meeting in order to make a practical distinction between participation in what is properly referred to as verification, of the non-Central American members of the International Commission on Verification and Follow-up and that of the Central Americans. Rigorously defined, this would not require changes in the letter of the Procedure. This subject is at the same time related to another problem which has been noted in the course of the meetings of the International Commission on Verification and Follow-up, which is the lack of a more operative procedure for taking decisions.

30. One of the primary considerations of the International Commission on Verification and Follow-up was the necessity to establish practical modalities for the verification of the accords contained in the Procedure of Guatemala. In order to verify the commitments made in security matters, to wit, the cease fire, the non-utilization of territories for aggression against other States and the cessation of aid to irregular forces and insurgency movements, the necessity for in situ inspection is a sine qua non requisite for verification if it is to be done with objectivity, independence and efficacy. All the members of the International Commission on Verification and Follow - up

accept this basic premise and no one doubts the necessity of this mechanism being duly established in order to be able to begin verification and follow-up.

31. In this sense, the Ministers of Foreign Relations who are members of the International Commission on Verification and Follow-up agreed to bring to the attention of the Heads of State of the Central American countries the usefulness of asking the Secretaries General of the United Nations and the Organization of American States to send an urgent Technical Mission to the region with the object of finalizing the details of establishing, in the five Central American countries, mobile units with the characteristics outlined in the second Mission Report.

32. In reference to commitments in the area of democratization, among them respect for human rights as well as free elections of candidates for national office and for the Central American Parliament, and refugees and displaced persons, the International Commission on Verification and Follow-up considers that its work of verification and follow-up could be aided by action by international organizations.

33. The International Commission on Verification and Follow-up considers it pertinent to note that there exist factors other than those of a structural nature which could affect compliance with the Procedure in their totality. These factors are described below.

34. The nature of Esquipulas II consists, more than in formal juridical obligations, in the political commitment which sustains it and in the incontrovertible fact that it has wide popular and unanimous international support. Nevertheless, the Procedure could be complemented by stipulations which would facilitate its practical instrumentation, such as a plan of execution and a schedule for the fulfillment of commitments.

35. It has become publicly well-known that what permitted an agreement on the Procedure of Guatemala was the smoothing out of differences between the parties regarding the sequences of compliance with the different commitments through an agreement that these would be complied with simultaneously. The international community expressed admiration for this formula which healed the apparently irreconcilable differences in regards to the conceptual problem of precedence between pacification and democratization.

36. The divergences of opinion, precisely in regard to the sequence of actions, brought to light the reality that simultaneous compliance, if it is not articulated in more detail than the general framework foreseen in Esquipulas II, will be difficult to realize in concrete terms. This is a fundamental and urgent problem which is still not resolved despite the efforts which have been made.

37. The outline of an orderly, chronological plan for the execution of the Procedure, supposes negotiation. This complicated and unavoidable task could move ahead decisively during the opportunity offered by the meeting of Presidents in San Jose.

Appendix 5

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JOINT STATEMENT OF THE PRESIDENTS OF CENTRAL AMERICA

January 16, 1988

The Presidents have received the conclusions of the report of the International Commission on Verification and Follow-up, prepared in accordance with numeral 11 of Esquipulas II, with reservations indicated by some of them.

The Presidents acknowledge the effort and enormous amount of work by the Commission, which they thank for their dedication and effort in order to contribute to the compliance with the Esquipulas II accords.

The Presidents entrust the Executive Commission, upon receiving the general report, with examining it, making the pertinent recommendations.

The Presidents confirm the historic value and importance of the Esquipulas II accord, whose conception and spirit today they recognize and reaffirm as vital for the achievement of the democratization and pacification of the region.

Because of the lack of complete compliance with the Esquipulas II commitments, they promise to meet unconditional and unilateral obligations that commit the Governments to total and essential compliance. Among them are dialogue, conversations for the agreement on a cease-fire, general amnesty, and, above all, democratization, which necessarily includes the lifting of the state of emergency, total freedom of the press, political pluralism, and the non-functioning of special tribunals. The commitments enunciated that have not been carried out the governments shall be carried out immediately in a public and evident manner.

The compliance with the accords of the Esquipulas II document includes commitments whose fulfillment by the governments is the object of an indispensable specific verification, particularly the suspension of aid to the irregular groups, the non-use of territory to support the same, and the real freedom of the electoral processes, which shall be verified through the National Reconciliation Commission, giving special importance to the election of the Central American Parliament, all "as an indispensable element for achieving a stable and lasting peace in the region."

The Executive Commission, composed of the Ministers of Foreign Relations of the Central American States, shall have the principal duty of verification, monitoring, and follow-up of all of the commitments contained in the Guatemala procedure and this statement. For that, it shall work towards the cooperation of states in the region or outside of it or of organizations of recognized impartiality and technical ability which have made clear their desire to collaborate in the Central American peace process.

In addition, the compliance with Esquipulas II involves the follow-up of obligations that include an already established strategy, as is the regulation of the arms buildup, and the agreements on security and disarmament.

We express our gratitude to the international community for the political and financial support that it has promised in order to foster regional projects aimed at achieving the economic and social development of Central America, as an objective directly tied to the task of achieving, preserving, and consolidating peace since, the original causes of this conflict being economic and social, it is not possible to achieve peace without development.

The Presidents, aware of their historic responsibility to their peoples, reaffirm their wish to comply in the form expressed, which they consider unrenounceable and unalterable, promising to comply with what is pending in an immediate manner without misleading statements or evasions, aware that it will be their peoples and the international community who will judge the compliance with the obligations entered into in good faith.

We sign this statement, thanking the People of Costa Rica and their President, Dr. Oscar Arias Sanchez, for the hospitality offered which allowed us the appropriate framework for holding this meeting.

/signed/

OSCAR ARIAS SANCHEZ
President
Republic of Costa Rica

/signed/

JOSE NAPOLEON DUARTE
President
Republic of El Salvador

/signed/

VINICIO CEREZO AREVALO
President
Republic of Guatemala

/signed/

JOSE AZCONA HOYO
President
Republic of Honduras

/signed/

DANIEL ORTEGA SAAVEDRA
President
Republic of Nicaragua

Translated by
Deanna Hammond
CRS - Language Services
January 21, 1988

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